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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,831	10/11/2001	Kamal Acharya	NETS0085	3000
22862	7590	11/29/2002	EXAMINER	
GLENN PATENT GROUP 3475 EDISON WAY SUITE L MENLO PARK, CA 94025			GART, MATTHEW S	
ART UNIT		PAPER NUMBER		
3625				

DATE MAILED: 11/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/975,831	ACHARYA ET AL
	Examiner Matthew s Gart	Art Unit 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 October 2002.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) 1-25 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .      6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over**

**Lin in view of Webber et al. and Giovannoli.**

Lin discloses a method for searching for items over the Internet comprising:

- Comparative shopping over the internet;
- Using a retrieval tool to locate and receive information on prices of desired items; and
- List the items in a graphical display via user preferences.

Webber et al. discloses a method for collecting information for items comprising:

- Search various sources;
- Enabling results to be view by a user; and
- Enabling offline merchants to forward product information and pricing to the network host.

Giovannoli discloses a method for collecting information and putting it on the Internet comprising:

- Venders combining to offer their collective inventory through a combined database;

- Processing request for quotation for goods over the internet; and
- Conditions such as the vendors' locations are taken into account and compared.

Lin lacks disclosing that the search would entail offline merchants. However as disclosed by Webber et al. and Giovannoli, it is obvious for offline merchants either through a consortium or a service to get their product listings online. The searching method as disclosed by Lin would search these products that are listed on the web thought these consortiums and services. These consortiums and services have updates to determine the availability of the items.

Using a computer to compare information is well known in the art. It is practically what they were created to do. The question that now stands is whether the categories that are claimed are obvious categories to be compared when purchasing from either an online merchant or a brick and mortar store.

Lin teaches that drop down list be used by the user to display the results of the search for different categories. The presentation of the data is an obvious design choice. Location, price, quality, sales, ease of returns, pickup information, user ratings, sales/ coupons, availability, and payment options are elements that a buyer considers when comparing items from different stores. Every consumer before a purchase takes these bits information into account before purchasing. Using a computer to compare, sort, and list is obvious and notoriously well known to one of ordinary skill in the art at the time of the invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide these categories in the drop down list of Lin.

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In brick and mortar stores the return policies are placed in plain view of every customer. It is obvious to make this information available online. Online stores return policies are easily obtainable. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide been obvious to include this information in the drop down list of Lin.

When ordering online from a brick and mortar store, pickup instructions are an obvious instruction. It is obvious to display these instructions to the user. "Go to the service counter" or "go to the pick-up counter" are obvious instructions to be given. It would have been obvious to one of ordinary skill in the art to provide for the presentation of pick-up instructions in the drop down list of Lin.

User ratings are well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide been obvious to one of ordinary skill in the art at the time of the invention to provide a user rating for each of the merchants in the drop down list of Lin.

The amount and type of merchants displayed is an obvious design choice to one of ordinary skill in the art at the time of the invention. In the art it is customary to allow the user determine how many what kind of results are to be displayed at one time.

***Responses to Arguments***

Attorney argues that Lin does not teach, disclose, or contemplate a system that provides integrating at least one online provider with at least one offline provider to provide an integrated list of providers for an item as claimed in the invention.

Lin lacks disclosing that the search would entail offline merchants. However as disclosed by Webber et al., it is obvious for offline merchants either through a consortium or a service to get their product listings online (Webber: at least abstract, "The computer network collects product/service information from various sources, such as gift stores, clothiers, computer dealers, etc. and formats the information in a recognizable manner to enable the information to be viewed by a user at the user's personal computer."). In Webber et al. the type of vendor is not differentiated by offline or online presence, but by other filtering factors as stated above.

Lin lacks disclosing that the search would entail offline merchants. However as disclosed by Giovannoli, it is obvious for offline merchants either through a consortium or a service to get their product listings online (Giovannoli: at least abstract, "Filter conditions may define the class of vendors in terms of geographical location, quantity, language spoken, currency, special conditions of sale, and the like."). In Giovannoli the type of vendor is not differentiated by offline or online presence, but by other filtering factors as stated above.

At the time the invention was made, it would be obvious to a person of ordinary skill in the art to modify the apparatus, system, and method of Lin to include the limitations of Webber et al. and Giovannoli as discussed above because comparative

shopping using the Internet as a search and retrieval tool to locate and retrieve information and prices for comparable products is a fast-growing area (Lin: at least column 1, lines 14-35).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

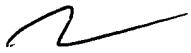
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

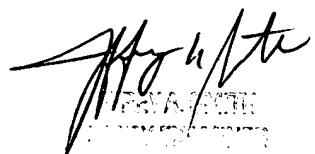
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



MSG

November 26, 2002

  
MATTHEW GART  
USPTO - APT 3625